

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA PRIORITY

C O N F I D E N T I A L STATE 176865

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E.O. 11652: NS

TAGS: BBAK; ID

SUBJECT: INDONESIAN EXPROPRIATION OF P.T. BAUD

FOR PATRICK M. NORTON - L/EA

1. WE BELIEVE THAT YOU CAN MAKE BEST USE OF YOUR TRIP TO
JAKARTA BY WORKING TOWARD FOLLOWING GOALS: (1) ENDEAVOR
TO OBTAIN INFORMATION WHICH WE LACK SO AS TO BE ABLE TO
ASSESS FACTS PUT FORTH BY BAUD; AND (2) OBTAIN INFORMATION
WHICH WOULD BETTER ENABLE USG TO ASSESS VALUE OF LAND
(ESPECIALLY UNCULTIVATED FREEHOLDS) TAKEN FROM BAUD.

2. YOU HAVE PREVIOUSLY IDENTIFIED SEVERAL AREAS OF CON-
TENTION WHERE WE HAVE ONLY THOSE FACTS ASSERTED BY P.T.
BAUD OR WHERE WE LACK OTHER INFORMATION NECESSARY FOR USG
TO FULLY AND FAIRLY ASSESS ISSUE. MUCH OF THE INFORMATION
SOUGHT MIGHT BE CONTAINED IN EMBASSY JAKARTA FILES OR MAY
BE GATHERED FROM INDIVIDUALS WITH KNOWLEDGE OF THE SPECIFIC
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PROBLEM OR THE GENERAL ISSUE, INCLUDING, AS APPROPRIATE,

GOI. AREAS THAT SEEM MOST FRUITFUL FOR RESEARCH (BASED ON YOUR PREVIOUS WORK HERE) ARE THE FOLLOWING:

A. BAUD IS THE ONLY MAJOR UNSETTLED U.S. CLAIM FROM THE SUKARNO ERA, YET BAUD SAYS THAT THE GOI HAS TREATED ITS CLAIM IN AN ARBITRARY AND UNFAIR MANNER. WHAT ABOUT THE OTHER CLAIMS, I.E., UNIROYAL, GOODYEAR? DID CLAIMANTS FEEL THEY WERE GIVEN FAIR SHAKE OR DID THEY SETTLE OUT OF EXHAUSTION AND DISGUST? WERE THERE CLAIMS SIMILAR IN NATURE TO THOSE OF BAUD? HOW WERE THEY RESOLVED?

B. AS TO THE UNCULTIVATED FREEHOLDS, WAS IT NORMAL PRACTICE, AS BAUD CONTENTS, TO HAVE SUBSTANTIAL PERCENT OF ESTATES IN THIS CONDITION? WHAT JUSTIFICATION FOR UNCULTIVATED LAND WAS ACCEPTED BY GOI, AS SET FORTH IN RELEVANT PROVISION OF 1958 EXPROPRIATION LAW? HAD THERE BEEN ANY WARNING THAT UNCULTIVATED LAND WOULD BE EXPROPRIATED? WAS BAUD OFFICIALLY DENIED RIGHT TO SEE ESTATES GOI OFFERED TO RESTORE?

C. LEGAL ISSUES PRESENTED INCLUDE THE FOLLOWING: DID ANY FOREIGN CLAIMANT CHALLENGE THE 1958 AND 1961 EXPROPRIATION LAWS? WITH WHAT RESULTS? IS THERE EVIDENCE THAT SUCH CHALLENGE WAS OR WOULD BE FRIVOLOUS? IS THERE ANY EVIDENCE THAT LEASEHOLDS WERE CONSIDERED TO BE OR WERE TREATED AS AUTOMATICALLY RENEWABLE UPON APPLICATION? DOES GOI CORPORATE LAW PROVIDE THAT COMPANY IS LEGALLY FOUNDED ONLY WHEN ITS ARTICLES OF INCORPORATION ARE PUBLISHED IN THE STATE GAZETTE? (DID OTHER FOREIGN LEASEHOLDERS INCORPORATE AND DID THEY HAVE THE PROBLEMS ENCOUNTERED BY BAUD?) WAS TIME LAPSE BETWEEN FILING AND PUBLISHING BAUD ARTICLES OF INCORPORATION TYPICAL OF OTHER FILINGS/PUBLISHINGS?

D. VALUATION QUESTIONS - ON WHAT BASIS DID THIRD COUNTRY NATIONALS BASE THEIR VALUATION OF ONE MILLION DOLLARS? WHEN BAUD REPRESENTATIVES EXPRESSED LACK OF INTEREST IN TWO ESTATES, WAS ANY VALUATION PLACED UPON THEM? ARE THERE ANY INSTANCES OF FOREIGN CLAIMANTS RE-

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CEIVING COMPENSATION FOR UNCULTIVATED LANDS?

3. WE RECOGNIZE YOU MAY NOT BE ABLE TO FIND ANSWERS TO ALL QUESTIONS WITHIN THE TIME YOU ARE ABLE TO SPEND IN JAKARTA. HOWEVER, IF ANY LIGHT CAN BE SHED ON THE MORE IMPORTANT UNANSWERED QUESTIONS, PARTICULARLY RELATING TO LAND/LEASEHOLD ISSUE, THIS WILL HELP US GREATLY IN OUR EVALUATIONS HERE. WE WILL AWAIT THE RESULTS OF YOUR TRIP

BEFORE ATTEMPTING TO REACH ANY CONCLUSIONS ON THE MATTER.
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